*sémantique sociale de la ville d'après les auteurs tunisiens du XVII^e et X^e siècles*, in A. Bouhdiba and D. Chevallier (eds.), *La ville arabe dans l'Islam*, Paris-Tunis 1982; L. Fernandes, *Habitat et prescriptions légales*, in IREMAM, *L'habitat traditionnel dans les pays musulmans autour de La Méditerranée*, ii, *L'histoire et le milieu*, Cairo 1990. (J.-Ch. Depaule)

**SHARĪʿA** (A.), derived from the root *sharaʿa*, having a primary range of meaning in relation to religion and religious law; also Shaʿr, frequently synonymous. The word *sharīʿa* is common to the Arabic-speaking peoples of the Middle East and designates a prophetic religion in its totality, generating such phrases as *sharīʿat Mūsā*, *sharīʿat al-Masīḥ* (the law/religion of Moses or the Messiah), *sharīʿat al-Madjūs* (the Zoroastrian religion) or *sharīʿatu-nā* (meaning our religion and referring to any of the monotheist faiths). Within Muslim discourse, *sharīʿa* designates the rules and regulations governing the lives of Muslims, derived in principal from the Ḳurʾān and *ḥadīth*. In this sense, the word is closely associated with *fiḳh* [*q.v.*], which signifies academic discussion of divine law. The root *sharaʿa* has a wide range of secular usage explored and analysed in the Arabic lexicographical tradition (see 5. below).

1. *Sharīʿa* in Ḳurʾān and *ḥadīth*
2. *Sharīʿa* in Jewish and Christian literature
3. *Sharīʿa* in Muslim literature
4. *Sharīʿa* and *fiḳh*
5. *Sharīʿa* in the lexicographical tradition

1. *Sharīʿa* in Ḳurʾān and *ḥadīth*.

1.1. *Sharīʿa* occurs once in the Ḳurʾān, at XLV, 18 ("We have set you on a *sharīʿa* of command, so follow it"), where it designates a way or path, divinely appointed. The cognate *shirʿa* is also used once, at V, 48, in parallel to *minhādj*, meaning way or path ("To each we have appointed a *shirʿa* and a *minhādj*"). The verb *sharaʿa* occurs twice, once with God as subject (*sharaʿa la-kum min al-dīn* ..., "He has laid down for you as religion that which he appointed also for Noah", XLII, 13); and once in relation to rebels (*sharaʿū lahum min al-dīn* ..., "Or do they have companions who have laid down for them as religion that which God did not permit?" VII, 163).

1.2. In the corpus of *ḥadīth* surveyed by Wensinck *et al.*, *sharīʿa* occurs once in the singular, in a *ḥadīth* in the *Musnad* of Ibn Ḥanbal: "the community shall remain on the *sharīʿa* (path/way) as long as there does not occur in it three things ..." The plural form occurs not more than a dozen times, mostly in locutions like *sharāʾiʿ al-islām*, *sharāʾiʿ al-īmān*, once in a string of terms indicating rules: *inna li-ʾl-īmān farāʾiḍ wa-sharāʾiʿ wa-ḥudūd wa-sunan*. The word *shaʿr* does not occur with the connotation of religion or law, and the verbal form *sharaʿa* occurs only once with these connotations, in a set of variations of the same *ḥadīth*: "God has laid down for his (var. your) Prophet the rules of guidance" (*sharaʿa li-nabi-hi sunan al-hudā*). The noun *shaʿr*, the verb *sharaʿa* and derivatives occur frequently with secular meanings, corresponding to those discussed in 5. below.

This paucity of usage and connotation make it unlikely that these sources constitute the beginning of the development of this term in Islam or in the other monotheist faiths.

2. *Sharīʿa* in Jewish and Christian literature.

2.1. The Jewish tradition. The translation of the Old Testament into Arabic attributed to Saʿīd b. Yūsuf al-Fayyūmī, known as Saʿadya Gaon (d. A.D. 933 [*q.v.*]), demonstrates that *sharīʿa* had become a central component of the religious vocabulary of the Arabic-speaking Jewish community. The most commonly used term for translating Hebrew *torah* is Arabic *sharīʿa* or its plural. When the Hebrew word clearly designates a single rule, or set of rules, the favoured terms are *sharīʿa* and *sharāyiʿ*. The same is true when the Hebrew term designates the law as a totality, the law delivered to Moses. There are many instances, especially in Deuteronomy, where the Hebrew word is retained in an Arabic form, *al-tawrāh*. The use of *sharīʿa* to designate a single rule is most obvious in a group of verses in Leviticus, e.g. Lev. vi, 8, "This is the law of the burnt offering" (*hāḏihi sharīʿat* ...); cf. vi, 14; vi, 25; vii, 1; vii, 7 etc. The plural form is found at Exod. xviii, 20, "And thou shalt teach them ordinances and laws" (*al-rusūm wa ʾl-sharāyiʿ*); cf. xviii, 16. The more general sense, where the word *torah* means the whole of the law, is exemplified at Exod. xiii, 9, "And it shall be a sign unto thee [Moses] ... that the Lord's law may be in thy mouth" (*li-takūn sharīʿat Allāh fi fī-ka*). The plural form is found at Exod. xvi, 4, "That I may prove them whether they will walk in my law or not" (*fi sharāyiʿī am lā*); cf. Exod. xxiv, 12. A majority of references to *torah* in Deuteronomy elicit the Arabic form *al-tawrāt*, perhaps because the referent is understood to be the Pentateuch; but cf. Deut. iv, 44, "And this is the law which Moses set before the children of Israel" (*wa-hāḏihi al-sharīʿa allatī* ...).

*Sharīʿa* is thus the most common word expressing rule and system of rules in Saʿadya's Arabic version of the Hebrew Bible. It is occasionally used to translate Hebrew *mitzvah*, e.g. Deut. vi, 25; xvii, 20. It functions frequently as one of a cluster of words designating God's commands, often together with *waṣāyā, rusūm, aḥkām*, etc., e.g. Deut. xxvi, 5; xxvi, 17. This translation, even if managed and completed by Saʿadya, should be understood as a reflection of a pre-existing Arabic targum tradition (Blau).

A similar reliance on the nouns *sharīʿa* and *shaʿr*, and the verb *sharaʿa*, for reference to God's law-making activities, is found in Saʿadya's theological (polemical) work, *K. al-Amānāt wa ʾl-iʿtiḳādāt*. This book, though it reflects Saʿadaya's participation in the Rabbanite-Karaite [see Karaites] struggle, may be accepted as a reflection of the general religious vocabulary used in polemical contexts by those who shared the monotheist traditions of the Middle East. *Sharīʿa* and its plural designate individual laws (141, 175) and also systems of law revealed by God through prophets (113). Rational laws are distinguished from revealed laws (*al-sharāyiʿ al-ʿaḳliyya wa ʾl-samʿiyya*, 115-8). *Shaʿr* is used synonymously with *sharīʿa*; and the verb, *sharaʿa* with God as subject, meaning to lay down a law (128-9). A context which generates multiple reference to the law (religious system promulgated by a prophet) is abrogation (*naskh*), the question whether the law of a later can abrogate that of an earlier prophet (131). Arabic *tawrāt* is used to designate the Pentateuch: *shaʿr al-tawrah*, *sharayiʿ al-tawrah* (139).

2.2. The Christian tradition. A similar use of this vocabulary can be found in Christian writers, discussion of abrogation being particularly likely to generate systematic reference to *sharīʿa*. A characteristic example, from the 4th/10th century, may be found in a polemical tract directed against the Jews, by the Jacobite ʿĪsā b. Isḥāḳ Ibn Zurʿa [*q.v.*]. *Sharīʿa* refers to a system of laws brought by a prophet and subject (perhaps) to abrogation by later prophets. The word *sunna* (pl. *sunan*) [*q.v.*] covers the same semantic field. Both terms are extended to carry distinctions

between natural, rational and revealed laws. The Christian religion, the Law of the Messiah, is referred to as *sunnat al-Masīḥ* (34) and *sharīʿat al-Masīḥ* (35).

The question of when this cluster of Arabic terms emerged as part of the self-expression of Jews and Christians is unclear. But, whatever model is adopted for the emergence and early development of Islam, it is necessary to acknowledge the co-existence or prior existence of Arabic-speaking Jewish and Christian communities. The development of an Arabic vocabulary for the expression of concepts and ideas integral to the prophetic religions of the Middle East is perhaps best understood as the common achievement of several communities engaged in polemical encounter throughout the 7th to the 9th centuries A.D. The most radical and stimulating account of this encounter is that of J. Wansbrough (1977, 1978).

3. *Sharīʿa* in Muslim literature.

*Sharīʿa* and its cognates appear, in Islamic religious literature, reflecting the same range and type of reference as in Jewish and Christian literature. *Sharīʿa* (pl. *sharāʾiʿ*) designates a rule of law, or a system of laws, or the totality of the message of a particular prophet. In so far as it designates a system of laws it is synonymous with the word *sharʿ*, which is probably the more common word in juristic literature for divine law. The verb *sharaʿa* may appear with God as subject (following Ḳurʾānic usage). More frequently, the process of demonstrating the law is a prophetic activity, and the word *shāriʿ* (law-giver) refers characteristically to Muḥammad in his function as model and exemplar of the law. In a rare extension of meaning, the word *shāriʿ* is transfered to the jurists, thereby highlighting the creative aspect of their interpretative activity (al-Shāṭibī, iv, 245). These patterns of usage may be found in all the major genres of religious literature.

3.1. *Kalām.* Theological literature is likely to generate reference to *sharīʿa* wherever the message bearing activity of a prophet becomes the focus of discussion. Al-Bāḳillānī (d. 403/1013 [*q.v.*]), in a discussion of prophets as bearers of the divine message (*risāla*), raised the question whether they confirm or abrogate the *sharīʿa* of an earlier prophet, *sharīʿat ghayri-hi min al-rusul.* He uses the adjective *sharʿī* to indicate revealed laws (*al-ʿibādāt al-sharʿiyya*) perhaps distinguished them from rational laws (*al-ḳadāyā al-ʿaḳliyya*) (38-40). The category of moral rules accessible to the intellect was denied by Sunnīs, but the concept was forced upon them by their Muʿtazilī opponents. Al-Ghazālī (d. 505/1111 [*q.v.*]), in his *K. al-Arbaʿīn*, describes Muḥammad as sent with a message (*risāla*) such that he abrogated with his law earlier laws, *nasaḵha bi-sharʿi-hi al-sharāʾiʿ.* Here *sharāʾiʿ* functions perhaps as a plural for *sharʿ* (20). In the Muʿtazilī tradition, the words *sharʿ*, *sharīʿa*, etc., kept their general sense, meaning the totality of a prophetic religion, but were also used systematically to distinguish rational from revealed laws. The Shīʿī (Muʿtazilī) scholar al-ʿAllāma al-Ḥillī (d. 726/1325 [*q.v.*]) accounts it a benefit of prophecy that the prophet brings rules which are not accessible to the intellect; he refers to these as *sharāʾiʿ* or *ʿibādāt wa-sharāʾiʿ.* He thinks there is no period of time exempt from a prophetic law (*sharʿu nabī*) (271-3, 278). Heresiographical literature continues to use the word *sharīʿa* and its derivatives to refer to Islam and to other religions, including *sharīʿat al-Maǧūs* for Zoroastrianism (W. Cantwell Smith).

3.2. *Tafsīr.* Works of Ḳurʾānic commentary draw on the conceptual structures of *kalām* while developing some arguments specific to Ḳurʾānic usage. The word *shirʿa* is usually declared to be synonymous with *sharīʿa.* Comparison of Ḳurʾān, V, 48 ("To each [community] we have appointed a *shirʿa*") and XLII, 13 ("He has laid down—*sharaʿa*—for you as religion—*dīn*—that which he had laid down also for Noah") prompted a systematic distinction between *sharīʿa*, meaning law, and different for different prophets, and *dīn*, implying recognition of the one God, and the same for all prophets. From al-Ṭabarī, citing Ḳatāda, *ad* V, 48: the Torah, the Gospels and the Ḳurʾān have each their own *sharīʿa* ... but *dīn* is one, meaning *tawḥīd* and *iḵhlāṣ li-llāh*, and brought by all prophets.

3.3. Juristic literature. In so far as juristic literature gives an account of or a statement of rules, it need not generate self-referring locutions. When it does so, there was a considerable number of technical terms meaning rule: *sunna/sunan, ḥukm/aḥkām, farīḍa/farāʾiḍ, ḥadd/ḥudūd, sharīʿa/sharāʾiʿ.* The latter does not dominate in the earliest texts. Even later, general reference to the law is more likely to elicit the word *sharʿ* than *sharīʿa.* Systematic distinction between ordinary linguistic usage and technical juristic usage depends on the contrast *lughat*$^{an}$:*shar*$^{an}$. Hermeneutical literature (works of *uṣūl al-fiḳh*) generated an increasing quantity of reference to the law, the law-giver etc., but the earliest work of this kind, the *Risāla* of al-Shāfiʿī, makes little use of the word *sharīʿa* or *sharʿ.* Later works generated numerous references. A characteristic context relates to the question whether Muslims and/or Muḥammad were subject to the laws of earlier prophets. Al-Ghazālī, in his *Mustaṣfā*, phrased the question in relation to *sharʿu-nā* and *sharʿu man ḳablanā*, our law and the law of those before us. He asked whether Muḥammad was bound by the law (*sharʿ*) of earlier prophets, and whether he abrogated the *sharīʿa* (*sic*) of Moses and Jesus. The rapid transition from *sharʿ* to *sharīʿa* suggests no distinction between these terms in this context. Espousing one of the views current in juristic circles, al-Ghazālī affirmed that the *Sharīʿa* of our Prophet (*sharīʿat rasūli-nā*) abrogated previous systems; for, if Muḥammad had been bound by any other *sharʿ*, he would not deserve the title of law-giver (*shāriʿ*).

Most of the problems attendant on the word *sharīʿa* were perspicuous to the tradition and capable of being explained. The Ḥanafī jurist Ibn ʿĀbidīn (Muḥammad Amīn b. ʿUmar, d. 1252/1836) explained it as having the meaning of a passive participle of the verb *sharaʿa*, meaning that which is laid down, or decreed. When the Prophet is identified as the law-giver, the *shāriʿ*, this is metaphoric usage (*maǧāz*$^{an}$); in truth (*ḥaḳīḳat*$^{an}$), it is God who is *shāriʿ*. *Sharīʿa* means the same as *milla* and *dīn* (i.e. the totality of religious beliefs), but it may be applied absolutely to the rules (*aḥkām*) governing human actions. Both *sharīʿa* and *dīn* may be ascribed (in a genitive construction) to God, the Prophet and the community: God's law, the Prophet's and the community's law. (Ibn ʿĀbidīn, i, 11)

4. *Sharīʿa* and *fiḳh.*

The academic discipline whereby scholars described and explored the *Sharīʿa* is called *fiḳh.* The word designates a human activity, and cannot be ascribed to God or (usually) the Prophet. It frequently occurs in a genitive construction with the name of a scholar: the *fiḳh* of Mālik, the *fiḳh* of Ibn ʿĀbidīn. The *Sharīʿa*, contained in God's revelation (Ḳurʾān and *ḥadīṯ*), is explained and elaborated by the interpretative activity of scholars, masters of *fiḳh*, the *fuḳahāʾ.* Since this is in practice the only access to the law, the two words are sometimes used synonymously, though *sharīʿa* retains the connotation of divine, and *fiḳh* that of

human. Since the late 19th century, the linguistic calque *al-ḳānūn al-islāmī* (Islamic law, borrowed from European usage) has become a part of Muslim discourse and carries with it connotations of legal system, as in modern states [see ḲĀNŪN]. Western studies of *fiḳh* are still dominated by the work of Joseph Schacht, who produced the articles *fiḳh* and *sharīʿa* for *EI*[1], the former lightly edited for *EI*[2].

4.1. The origins of Islamic law. The earliest large-scale and systematic expressions of the law are found in a bundle of texts attributed to scholars of the late 2nd/8th and early 3rd/9th centuries, notably Mālik b. Anas (d. 179/795), al-Shāfiʿī (d. 204/820), al-Shaybānī (d. 189/805) and Abū Yūsuf (d. 182/798 [*q.vv.*]). The last two are pupils of Abū Ḥanīfa (d. 150/767 [*q.v.*]), who, together with Mālik, al-Shāfiʿī and, later, Aḥmad b. Ḥanbal (d. 241/855 [*q.v.*]) gave his name to a broad tradition or school (*maḏhab*) of juristic thinking. These four schools dominated the Sunnī community. The Imāmī Shīʿa developed an independent tradition of their own (finding literary form only in the 4th/10th century). And there were a number of minor traditions, e.g. those of the Zaydīs and Khāridjīs (both alleged to be early) and the Ẓāhirīs (or Literalists), followers of Dāwūd al-Ẓāhirī (d. 269/882 [*q.v.*]). The emergence of the dominant traditions is presented inside Islam as the result of a process, described in historical terms, but perhaps a narrative expression of a theological conviction. The Prophet, by virtue of his ideal practice or *sunna*, was exemplar and model for his followers, whose duty it was to conform to his *sunna*. To this end, his words and deeds were preserved by his Companions in the form of discrete narratives or *ḥadīṯ* which were passed on from generation to generation, giving rise to discussion, debate and finally to formal juristic thinking, or *fiḳh*. The eponymous founders of the schools, by virtue of their piety and commitment to Ḳurʾān and *ḥadīṯ*, together with their learning and capacity for systematic thought, derived from this inheritance structures of rules which were adopted by subsequent generations, and preserved and developed in an ongoing tradition of commitment and loyalty. The actual and historically successful juristic traditions in Islam were thus traced back to the Prophet through the decisive intervention of great jurists.

As an account of history, this sequence of events was challenged already by Ignaz Goldziher (*Muh. Stud.*, 1888-90). Building on his work, Schacht offered, in his *Origins*, a coherent account of early Muslim jurisprudence. He proposed that the earliest works were reflections of a "living tradition" which had grown up locally in diverse cities (Kūfa, Baṣra, Damascus, Mecca, Medina). The systematic structures that emerged reflected local (and Imperial, Umayyad) practice, and the ongoing thought of local scholars. They were not dependent on Prophetic *ḥadīṯ*, perhaps not even on the legal aspects of the Ḳurʾān. Increasing polemical encounter, in the early ʿAbbāsid period, led to a search for justification of the law and this took the form of appeal to Prophetic practice expressed in the form of *ḥadīṯ*. The first scholar to argue systematically that law was necessarily related to Prophetic *ḥadīṯ* was al-Shāfiʿī, who emerges, for Schacht, as the master architect of Islamic law. Eventually all the schools succumbed to al-Shāfiʿī's argumentation and developed a common hermeneutical approach to the law, presenting it as derived, by a systematic act of interpretation, from Ḳurʾān and *ḥadīṯ*. According to Schacht, the demand for Prophetic *ḥadīṯ*, even before al-Shāfiʿī, and certainly after him, ensured that they were produced (created) in numbers appropriate to the need. Schacht derived his theory primarily from the study of al-Shāfiʿī's *Umm* and *Risāla*, works which not only exemplify (in marked contrast to other early works) the principle of Prophetic authority for the law but systematically criticise the early local schools for their failure to adhere to this principle.

All subsequent scholarship in this field has responded to Schacht, whether to refute, to qualify, or to confirm and extend his findings. Several Muslim scholars (e.g. M.M. Azmi) have denied them. Both Muslim and secular scholars have searched for qualifications and refinements whereby to discover the antiquity and/or authenticity of at least some Prophetic *ḥadīṯ* (G.H.A. Juynboll, D.S. Powers). J. Wansbrough has developed Schacht's methodology, arguing that the Ḳurʾān too must be recognised as the end product of two centuries of community experience (1977). N. Calder argues that the major early works of Islamic law are not authored, but organic, texts, reflecting generations of thinking about the law, expressed through successive redactions of school material (1993). F. Rahman initiated a Muslim theological response to Schacht's ideas (1965).

4.2. The literature of the law. There are a number of genres of juristic literature, of which the two most important are *furūʿ al-fiḳh* (a literature of rules) and *uṣūl al-fiḳh* (a literature that identifies the sources of law and the methodology for deriving rules from revelation). It is possible to identify a number of minor genres, but many of these can be classified as monographic developments of topics that are proper to *furūʿ* (e.g. special studies of the rules relating to government, or judicial practice) or *uṣūl* (special studies of analogy or consensus, etc.). Collections of *fatāwā* (sing. *fatwā* [*q.v.*]) and studies on the authority of *muftīs* (section 4.3, below) may be recognised as independent genres, the first having some affiliation to works of *furūʿ*, the second to works of *uṣūl*.

*Furūʿ*. The genre of *furūʿ* is continuous from the 3rd/9th to the 13th/19th century. All the major works of the genre have the same basic structure. They offer a network of rules roughly grouped into topics. The major topics of the law are, first, purity, prayer, alms, fasting and pilgrimage. These, together, sometimes, with *ḏjihād*, are the major *ʿibādāt* (acts of worship). Their importance is signalled by their being positioned at the beginning of a work of *furūʿ*. More loosely ordered are the remaining topics of the law, the *muʿāmalāt* (interpersonal acts). These include family law (marriage, divorce, inheritance, testamentary bequest, slavery, etc.), mercantile law (contracts of sale, debt, hire, loan, gift, partnership, etc.), laws relating to agency, land ownership, compensation for injury, killing and the usurpation of goods, penalties (restricted to the divinely specified penalties for adultery, false accusation of adultery, theft, wine-drinking and highway robbery), judicial procedure and other topics. Though various attemps were made to devise more analytical approaches to the topics of the law, a sequential approach based on loose groupings, and subject to considerable variation, prevailed. Since the topics of the law cover all the major categories of a pious, and a social, life, and since, further, the tendency of the jurists was to hold on to the concrete and to elaborate precise and distinct "cases" for analysis, a work of *furūʿ*, formally at least, constituted a literary depiction of social reality in normative form. As works of literature, books of this kind were subject to the usual tendencies of literary formalism, sufficiently indicated in the notions of linguistic,

structural and conceptual virtuosity, of imaginative exploration, of realism transformed into artifice, etc. At the same time, in so far as they were intended to control and guide social life, they display also qualities of practical concern and hard-headed realism. The interplay of literary and imaginative qualities with practical and mundane ends was not predictable and varied immensely both within a work and across works and schools. The four major schools of law, and the Shī'ī tradition, show a broadly similar approach to the genre and a broadly similar exploration of its possibilities.

To the casuistic and exploratory aspects of a work of *furū'* were added patterns of justificatory argument. These had two major forms. First, the interpretative relationship between school tradition (*madhhab*) and revelation (Ḳur'ān and Sunna) was re-expressed from generation to generation, constituting a major part of the ongoing task of jurists. At the same time, loyalty and commitment to tradition were expressed through demonstration that later articulations of the law were derived from and were justifiable in terms of earlier articulations within the school. Works of *furū'* had thus a dual hermeneutical aspect: an interpretative relationship to the school tradition and a further interpretative relationship to Ḳur'ān and Sunna. It is the former which dominates. Jurists did not act as independent interpreters of revelation, they submitted to the authority of the school and the eponymous founder. They were committed, by a prior act of loyalty (usually determined by birth or geography), to a discursive, hermeneutical, engagement with their past. The creative aspect of their work was termed *idjtihād*, the duty of submission *taḳlīd* [*q.vv*]. The original act of *idjtihād* characteristic of the eponymous founders was absolute and independent, that of succeeding jurists qualified and limited.

The various components of a work of *furū'* can then be summarised with reference to topics and concepts, rules and "cases", and justificatory argument related to Ḳur'ān and Sunna, and to school tradition, the whole capable of being drawn towards an exploratory and hypothetical pole or towards a pragmatic and practical pole. The literary tradition as a whole suggests possibilities of expansion and exuberance which point (perhaps not accidentally) towards an infinite concern with detail. This tendency naturally engendered the opposite need, namely that of synthesis, control and concision. The play of expansion and concision is reflected in two literary types within the genre, *mukhtaṣars* and *mabsūṭs*. A *mukhtaṣar* or epitome is a concise exposition of the law, often expressed in a self-consciously elegant and syntactically compressed language. One of the most famous, and aesthetically and intellectually challenging, works of this kind is the *Mukhtaṣar* of al-Khalīl b. Isḥāḳ (d. 776/1374). A *mabsūṭ* by contrast tends to multiply detail and argument, with only loose structural control. The relationship between *mukhtaṣar* and *mabsūṭ* is repeated in that between *matn* and *sharḥ* (text and commentary), it being a mark of the continuity of a tradition that what was summarised was the tradition to date, and what was expanded was an earlier and briefer expression of the tradition. The processes of summary and commentary, of paraphrase and citation, of preservation and re-use of prior articulations were all symbolic of loyalty and of a mode of hermeneutical development which camouflaged the reality of change. Change, in this context, means not only the accommodation of rules to social reality but also the management of a literary structure to serve the needs (educational, literary, aesthetic, theological, and strictly legal) of a developing community.

*Uṣūl.* Works of *uṣūl*, like works of *furū'*, have a stability of form and content which, marking them as a continuous genre, lasted till the 13th/19th century (and in some areas beyond). These works emerged, in numbers, in the early 5th/11th century, the most sophisticated of the early works emerging only towards the end of that century. Particularly significant was the synthesising and ordering work of a group of Shāfi'ī scholars living under the Saldjūḳs, notably Ibrāhīm b. 'Alī al-Shīrāzī, the Imām al-Ḥaramayn al-Djuwaynī, and al-Ghazālī. The *Mustaṣfa* of al-Ghazālī was a well-organised work which, capturing and ordering all the topics of the discipline, in a masterpiece of structure and expository detail, decisively influenced the subsequent development of the genre. The *Risāla* of al-Shāfi'ī constitutes an apparently isolated early work which has most of the characteristics and covers many of the topics of a work of *uṣūl*, but it has been judged by contemporary scholars to be either a late school work (Calder, 1993), or a work of limited achievement whose implications took time to discover (Hallaq, 1993).

Works of *uṣūl* usually contain four broad areas of discussion: the categories of the law; the sources of the law; the hermeneutical rules that permit extrapolation of norms from sources; and an elaboration of the theory of *idjtihād*. The categories comprise at least the familiar five *aḥkām* (sing. *ḥukm*), viz. mandatory, preferred, permitted, disliked and forbidden, and the distinctions between valid, defective and null (*saḥīḥ, fāsid, bāṭil*). The sources always include Ḳur'ān, *ḥadīth* and consensus (*idjmā'* [*q.v.*]), and might include intellect (limited for the Sunnīs to a presumption of continuity, *istiṣḥāb al-ḥāl*), the law of earlier prophets, the opinions of the Companions, juristic preference (*istiḥsān* [*q.v.*]), and public welfare (*maṣlaḥa* [*q.v.*]). The hermeneutical principles relate first to language and rhetoric (usually presented in a set of antithetical pairs: ambiguous and clarifying, the evident and the inferred, commands and prohibitions, general and particular, etc.) and secondly to the operation of analogy (*ḳiyās* [*q.v.*]). All of these items were contained in an open-ended and exploratory pattern of discourse.

The body of hermeneutical principles leads to conflicting possibilities (*ta'āruḍ*) and to the exercise of preference (*tardjīḥ*), the methodology of which is explained under the heading *idjtihād*. *Idjtihād* literally means effort. Technically, it means the exertion of the utmost possible effort by a trained jurist, taking into account all the relevant texts and principles of interpretation, to discover, for a particular human situation, a rule of law. Underlying this definition there is an important epistemological message. It concedes that most of the details of the law are not known for certain but are a matter of skilled and pious deduction, leading, however, only to opinion. Final certainty on the details of the law is not accessible, but the duty of searching for and justifying opinion by argument is absolute. Committed in this respect to argument and debate, the jurists (in this context *mudjtahids*, those who undertake *idjtihād*) also acknowledged a need for final decisions in particular cases. This was provided by asserting that the result of an act of *idjtihād* was binding both on the *mudjtahid* and, where relevant, on those who were not trained in the law. The latter (the *'āmmīs*) were required to submit to the *mudjtahids*, becoming thereby *mukallids* (lit. followers or imitators). In so far as a *mudjtahid* responded directly to a particular question, he was acting as a *muftī* and his decision was

a *fatwā*. This network of topics was a part of the hermeneutical thinking of the Sunnī and Shīʿī traditions, and it was capable of varied and sometimes highly individual development.

4.3. *Sharīʿa* and practice. The literature and intellectual structures which were the highest expression of *sharīʿa* had their most important social realisation in the Islamic educational system. With the emergence of *madrasas* [*q.v.*] in the 5th/11th century, *fiḳh* was recognised as the chief end of education, and retained this position until the decline of the traditional system in the 19th and 20th centuries. Common to all Islamic lands, and taught almost exclusively in Arabic, the curriculum provided cultural homogeneity and fostered the emergence of a pan-Islamic cultural élite. The discipline of *fiḳh* became a powerful and flexible intellectual tool, adapted to various social needs, aesthetic, imaginative and theological as well as strictly legal. The training in this discipline was usually found practical in respect of the needs of the mercantile classes and the governing bureaucracies, as well as the religious hierarchy.

The topics and concepts of the law were closely allied to life experience or could be made so by systematic exploratory thought. But a work of *furūʿ* was never a set of rules governing practice in the way that regulations and statutes do. In a given city, at one time, different jurists produced different works, reflecting different concerns; intended to influence certainly, but also to provoke thought and to delight. The actual realisation of the law depended always on personal and local factors: the customs of a family or a quarter, the traditions of a city or a region, the specific rules and practices of a judge, a governor, or a sultan. The pluralist and exploratory aspects of the law had a varied and unpredictable relationship to the necessarily single and pragmatic actuality. This relationship itself became a part of the subject matter of *furūʿ*. The interplay of legal theory and reality has become increasingly an object of scholarly study, exemplified in Heyd (1973) and Johansen (1988).

Some areas of the law were systematically transformed into administrative structures. Central amongst these was the office of judge (*ḳāḍī* [*q.v.*]). His competence covered many aspects of family law (marriage, divorce, inheritance etc.), the administration of charitable endowments (*waḳf*) and the property of orphans, and the adjudication of civil disputes. His appointment and terms of office were controlled by political authority. His efficiency was often thought to be limited by the stringency of *sharʿī* rules and this led to the emergence of parallel judicial structures (called *maẓālim* [*q.v.*] in early ʿAbbāsid times) which had a more pragmatic attitude to the law and were closely related to government. In Ottoman times the integration of the *ḳāḍī* into the structures of government was nearly complete. (Tyan, 1960)

Mediating between the law as theory (object of study and subject of literary endeavour) and law in practice was the *muftī*. The *muftī* was a jurist, preferably highly qualified, who made himself available to give specific answers to specific questions of the law. In many areas and periods, and notably under the Ottomans, the higher ranks of *muftī*s were controlled and salaried by the government (Heyd, 1969). The responsa of *muftī*s were called *fatāwā*, and, in the case of intellectually outstanding, or politically important *muftī*s, might be preserved either as individual items or in collections. These have been recognised as important to our understanding of the law in practice (Masud *et al.*, 1995). Theoretical accounts of the authority and ranks of *muftī*s stimulated some of the most instructive general theories of Islamic law.

4.4. Modern developments. From the mid-19th century, three major factors affected the history of the *Sharīʿa*, all of them, at least in part, a result of Western influence. First, there was the gradual emergence of secular educational systems, aimed initially at the needs of the military, then of the administrative and mercantile classes. This development reduced the numbers of students in the traditional system, deprived them of a career structure, undermined their social alliances, and marginalised the subject matter of the curriculum. In the Shīʿī world, where the jurists had greater access to independent finance, the major centres of juristic education survived better, but even there, there was a decline in provincial centres and some loss of status. Secondly, with the emergence of modern, independent nation states, there was a rapid development of law-codes, constitutions, and statute law. In some respects, these are continuous with the procedures of government by decree that characterised older systems. But the enactment of the *Maḏjalla* [see MEDJELLE] (a partial codification of Ḥanafī law for practical ends), in 1876, by the Ottoman authorities, initiated a long history of (selective) codification of traditional law that continued through the 20th century. The reformist ideas of theoreticians (like Muḥammad ʿAbduh, d. 1905 [*q.v.*], in Egypt) brought increased flexibility based on a renewal of *iḏjtihād*, an abandonment (or curtailment) of school loyalties, and a patchwork approach to the juristic tradition as a whole (*talfīḳ* [*q.v.*]). Jurists and the religious-minded found it possible to accommodate themselves to the idea of constitutions. A majority even of the Shīʿī jurists supported the Persian Constitution in 1906. Throughout the 20th century all modern Muslim states have acquired legal systems, suited to modern nation states, in an astonishing act of creative system building, in which the *Sharīʿa* has always been one influence (Western legal systems being another, often a dominant, influence). The actual role of the *Sharīʿa*, meaning the tradition of *fiḳh*, has varied both in terms of its symbolic foregrounding and in terms of its real input (always greatest in the area of family law) (Anderson, Coulson).

A third area of development relates to political opposition. The ideology of political opposition in the Muslim world has been influenced by Western thought (by French revolutionary, or socialist and communist ideologies, etc.), but is nearly always accompanied by appeal to the *Sharīʿa* as an ideal of social justice. In these contexts, the word is characteristically deprived of detail, of complexity, and of association with the intellectual tradition of *fiḳh*. It functions instead as a constitutive element in a demand for loyalty, unity, and commitment; it represents an ideal (unreal) governmental system. With this pattern of connotation, it permeates the ideological statements of the Muslim Brothers and of more recent fundamentalist groups. It is sometimes closely associated with the name of the scholar-hero Ibn Taymiyya [*q.v.*] (exploited for his arguments in favour of a renewed *iḏjtihād*, based on a return to the earliest generations—the *salaf* [see AL-SALAF WA 'L-KHALAF; SALAFIYYA]): or with selected items of the law which take on the disproportionate ideological burden (e.g. the *ḥadd* penalties for fornication).

Neither the practical aspects of the history of the *Sharīʿa* in the 20th century, nor its ideological aspects, take up or draw on the complex of cultural, philosophical and theological messages that are embedded in the tradition. In so far as these messages can be

recovered and translated into idioms appropriate to the 21st century, it seems likely to be the task of modern universities in the Muslim world, these being now the dominant institutions that preserve the cultural inheritance of traditional Islam.

5. *Sharīʿa* in the lexicographical tradition.

The lexicographical tradition recognises two major (and a number of minor) areas of use which are without religious connotation. In a corpus of poetry and of *ḥadīth* evoking a pastoral and Bedouin environment, the verb *sharaʿa* and its derivatives relate to watering animals at a permanent water-hole. The verb implies lapping at, or drinking, water, and has animals as its subject (*sharaʿat al-dawābb*). *Sharīʿa* designates the area round a water-hole, or the point of entry to it, the place at which the animals drink, a place and not a road—*mawḍiʿ, mawrid. Sharaʿa, sharraʿa,* possibly *ashraʿa,* all mean to drive (or lead) animals to water. Adjectival usage indicates animals en route to or lapping at water (*dawābb shurūʿ*). *Sharīʿa* also signifies the seashore, again with special reference to animals which come there. Various aspects of this semantic cluster are claimed to constitute the origin of religious use. The second major semantic field relates to the notions of stretched, extended, and lengthy. A *shirʿa* is a fine string, as stretched on a bow, or a lute. *Ashraʿu 'l-unfi* is long-nosed. A *sharaʿa* (pl. *ashruʿ*) means a projecting, covered area (syn. *saḳīfa*). The *shirāʿ* of a ship is its sail, stretched above it to catch the wind. This word is applied also to the neck of a camel; hence also *shurāʿiyya,* a long-necked camel (*Lisān al-ʿArab,* s.v. *sharaʿa;* see also Lane, *Lexicon*). This field of use is cognate with Biblical and Talmudic Hebrew *saraʿ* meaning to stretch/be stretched and is likely to be the origin of *shāriʿ* and *sharīʿa* meaning way, path, road, highway. It is from here that the specialist religious use emerged.

*Bibliography*: J.N.L. Anderson, *Law reform in the Muslim world,* London 1976; M.M. Azmi, *Studies in early hadith literature,* Beirut 1968; Bāḳillānī, Muḥammad b. al-Ṭayyib, *Kitāb al-Bayān ʿan al-farḳ bayn al-muʿdjizāt wa 'l-karamāt,* ed. R.J. McCarthy, Beirut 1958; J. Blau, *On a fragment of the oldest Judaeo-Arabic Bible translation extant,* in J. Blau and Stefan C. Reif (eds.), *Genizah research after ninety years,* Cambridge 1992; N. Calder, *Studies in early Muslim jurisprudence,* Oxford 1993; N.J. Coulson, *Succession in the Muslim family,* Cambridge 1971; Ghazālī, Muḥammad b. Muḥammad, *Kitāb al-Arbaʿīn fī uṣūl al-dīn,* Beirut 1979; idem, *al-Mustaṣfa min ʿilm al-uṣūl,* 2 vols., Būlāḳ 1325; Wael B. Hallaq, *Was al-Shāfiʿī the master architect of Islamic jurisprudence?,* in *IJMES,* xxv (1993); U. Heyd, *Some aspects of the Ottoman fetva,* in *BSOAS,* xxxii (1969); idem, *Studies in Old Ottoman criminal law,* ed. V.L. Ménage, Oxford 1973; al-Ḥillī, al-Ḥasan b. Yūsuf al-ʿAllāma, *Kashf al-murād,* Ḳum n.d.; Ibn ʿĀbidīn, Muḥammad Amīn, *Ḥāshiyat Radd al-muḥtār,* Cairo? 1386/1966; Ibn Zurʿa, ʿĪsā b. Isḥāḳ, in P. Sbath, *Vingt traités philosophiques et apologétiques d'auteurs Arabes Chrétiens,* Cairo 1929; B. Johansen, *The Islamic law of land tax and rent,* London 1988; G.H.A. Juynboll, *Muslim tradition: studies in chronology, provenance and authorship of early hadith,* Cambridge 1983; K. Masud, B. Messick, D. Powers (eds.), *Islamic legal interpretation: muftis and their fatwas,* forthcoming; D.S. Powers, *Studies in Qurʾān and ḥadīth: the formation of the law of inheritance,* Berkeley, etc. 1986; F. Rahman, *Islamic methodology in history,* Karachi 1965; Saʿadya Gaon, Saʿīd b. Yūsuf al-Fayyūmī, *Kitāb al-Amānāt wa 'l-iʿtiḳādāt,* ed. S. Landauer, Leiden 1880; idem, *Version arabe du Pentateuque,* ed. J. Derenbourg, Paris 1893; J. Schacht, *The origins of Muhammadan jurisprudence,* Oxford 1950; idem, *An introduction to Islamic law,* Oxford 1964; al-Shāṭibī, Ibrāhīm b. Mūsā, *al-Muwāfaqat fī uṣūl al-aḥkām,* ed. M.-D. ʿAbd al-Ḥamīd, 4 vols., Cairo 1970; W.C. Smith, *The concept of sharīʿa amongst some mutakallimūn,* in G. Makdisi (ed.), *Arabic and Islamic studies in honor of Hamilton A.R. Gibb,* Leiden 1965; E. Tyan, *Histoire de l'organisation judiciaire en pays d'Islam,* Leiden 1960; J. Wansbrough, *Quranic studies,* Oxford 1977; idem, *The sectarian milieu,* Oxford 1978. (N. CALDER)

In South-East Asia.

Islam is found primarily in the modern states of Indonesia and Malaysia [*q.vv.*], with a presence also in Burma, Thailand and the Southern Philippines. The language of Islam is primarily Malay and Indonesian and cognate languages. Islam dates from the late 14th century and from that time the *Sharīʿa* has been expressed in a number of different forms. In general, we can distinguish three such forms.

(I) *The pre-modern texts.*

These are in Malay, Javanese and Arabic, and extant mss. date mostly from the 18th and 19th centuries.

The texts in Malay most usually, consist of elements of *fiḳh* as well as localised provisions (*adat*) [see ʿĀDA]. Commonly, these two elements are distinct and separate parts, and may easily be distinguished. However, it is not uncommon in some texts (e.g. Malacca laws, the Undang-undang Minangkabau) for explanations to be given as to different functions for each source of law. One (*adat*), expresses the practice of mankind, the other, *fiḳh,* the will of God. Differences are always reconcilable in the texts. The Java-Muslim texts, on the other hand, are written in an Indian-adapted form (*ubaya, pepakem, jayasong*) in which the Islamic element is confined to references to promulgation by a Muslim ruler and to *Hukum,* the law of God. There is little or no substantive *fiḳh.* One has Javanese laws administered under the aegis of a Muslim sovereign. Whether this was always the case in Java is uncertain because of the Dutch practice (18th-19th centuries) of revising or improving ("verbeterd") existing mss. for administrative use.

The major Arabic texts of the *Sharīʿa* circulated widely in South-East Asia. The standard works of al-Shāfiʿī, al-Anṣārī, al-Nawawī and al-Haythamī were either imported from the Middle East or were available in locally produced reprints. They were, and still are, the standard works for use by *kathi* and *imam* and in the *pesantren* [*q.v.*]. It was common practice for interlinear translation and/or glosses to be added. There was a considerable industry in the translation of these verses, especially into Malay. In the 18th and 19th centuries, elements of each of these pre-modern laws appeared in European (Dutch and British) rationalisations of Muslim law(s). The practice was to take selected portions of the *Sharīʿa* and incorporate them into administrative manuals for colonial use. There are many examples (see below).

To sum up: there is a vast mss. source which shows the adaptation and incorporation of the *Sharīʿa* into South-East Asian laws. The forms vary widely and, so far as context is concerned, the *Sharīʿa* is reproduced in part, re-defined and re-stated and (in some cases) exactly translated. However, by the mid-19th century, one can say that there was a definite trend toward the more classically-exact Arabic language prescription. This was a consequence of greater access to the Middle East centres of learning, brought about ironically enough by the colonial powers themselves,

but it was a trend interrupted by the imposition of colonial rule.

(II) Sharīʿa *in the colonial period (18th-20th centuries).*

In the pre-European Muslim lands, Islam was central to kingship, rule, sovereignty and morality. With European dominance from the 18th century onwards, Islam lost this function. Its status was reduced to that of a private religion and its political function was reduced to but a pale shadow, if that, of its former position. The *Sharīʿa*, likewise, was similarly limited in its scope and narrowly limited in its implementation.

(a) The Netherlands East Indies.

Islam was always an ideology of resistance to Dutch rule in the Indies and this intensified in the 19th century when V.O.C. rule was replaced by direct Netherlands State Government (1800). From this time, the N.E.I. Government adopted a consistent long-term policy toward the *Sharīʿa* in its legal administration.

N.E.I. legal policy was to introduce separate legal régimes for the various population groups. Thus for Europeans or persons assimilated to that status, the law was the law of the Netherlands. For the native population(s) it was *adat* (custom). There were about nineteen named *adat* law areas ("adatrechtskring"). The *Sharīʿa*, as such, had no place in this system. Islam was a religion only and not one which necessarily had legal consequences. This policy of separate law régimes became ever more complex throughout the 19th-20th centuries and ultimately proved unworkable. For example, special provisions had to be made for Native Christians, provisions had to be made for assimilation, i.e. change from one group to another, there were serious difficulties in inter-racial family law as well as in commercial law, and a complex intra-racial law of conflicts of laws had to be developed.

For the *Sharīʿa*, it was realised by 1882 that Islam could not be excluded from the legal régime, whatever its status in politics might be. In that year a "Priests' Court" (*Priesterraad*) was instituted for Java and later extended. Its competence was severely limited, mainly to family law but excluding inheritance, and its decisions had to be approved by the secular courts. Substantial revisions were made in 1937 which extended jurisdiction and also extended this competence of the courts (now the "Penghulu Courts") to Borneo. At the same time, the 1937 law withdrew jurisdiction in specified forms of property which were also in dispute in the civil (*Landraad*) courts. In short, the *Sharīʿa* was subject to very restrictive laws and its pre-colonial trend toward a more exact implementation was halted. On the other hand, it received a new form; now it was expressed in regulations and in bureaucratic practice. These are characteristics which persist into the post-colonial period (below). It is the politics of laws, rather than the *Sharīʿa* itself which determines the status of *fikh*.

(b) The British Territories.

These comprised the following:

(1) British Burma (1826-1947). The Islamic presence in Burma was an accident of imperial expansion. Muslims were immigrants, and the history of *Sharīʿa* is the history of *Sharīʿa* in Bengal. The only exception is some precedent on persons of mixed race ("Zerbadi"), one of whom was Muslim (see references).

(2) Second, the Straits Settlements and Malay States (1786-1957). It was British policy to recognise and give effect to the "manners, religions and customs" of the subject peoples. In effect, this meant the legal recognition of religious laws in the areas of family law and land ownership. To this extent, the *Sharīʿa* had recognition in purely family and religious (e.g. mosque administration, *wakf*) matters. However, there are some special features which should be noted. First, references were taken from the pre-modern texts, but only in relation to land, and not to religion as such. Second, the *Sharīʿa* administered in the courts was taken from local experts not from the standard text books. It was only in the 1930s that standard texts from British India were commonly consulted. Third, *Sharīʿa* was never permitted to influence inheritance where land was involved; this was always a matter governed by *adat*.

From the late 1880s, the *Sharīʿa* gradually came to be organised in legislation and in the creation of a *Sharīʿa* court system, together with the necessary bureaucracy. Various "Muslims' Ordinances" or legislation with a similar name were promulgated. The purpose of the legislation was to regulate marriage (by registration), define the duties of the *ḳāḍī*, and regulate property matters as between husband and wife. The legislation was many times amended. The point is that *Sharīʿa*, while recognised in a limited way, was a "local" law or a "personal" law for a defined group. The *Sharīʿa* was dependent on recognition by the colonial authority. It had no existence outside of its colonial dependence, and it was never the law of the country.

(3) British Borneo comprised *Sarawak* (1841-1963) and British North Borneo (1888-1963). In both cases, the *Sharīʿa* was only one of a number of "native laws". There was no attempt to apply it; instead, there was a mélange of custom (*adat*) with some rather eclectic, mostly inaccurate, selections of *fikh*. This composite was not imposed by the British authority. Instead, by taking evidence from the local Muslim populations it grew and took on a life of its own. The most striking example is the Undang-undang Mahkamah Melayu Sarawak "Laws of the Sarawak Malay Court" (1915).

(c) French Indo-China and the American Philippines.

These can be dealt with rather shortly. In the Indo-China territories, the minority Cham [see ČAM] of western Vietnam and eastern Cambodia were Muslim. There were historical links to Java. The only reliable information dates from 1941 (see *Bibl.*) and shows a sort of "Customary Islam". For the Philippines [*q.v.*], the main Muslim population is in the southern islands. Here, the *Sharīʿa* was only one element in an *adat*-Islam complex of prescriptions. While in respect of the Cham the French did manage a classification, that of *asiatique assimilé*, in terms of private international law, the Americans attempted nothing of the sort. Islam was considered only in political terms; the *Sharīʿa*/*adat* was ignored.

(III) Sharīʿa *since the Second World War.*

The end of the war saw the effective end of the colonial presence in South-East Asia. For Islam, this had two important consequences. First, Islam could now have an open and legitimate political presence in what became Indonesia and Malaysia. The result was that the *Sharīʿa* immediately attained a status of something more than a personal law. Indeed, even in the transition periods, new provisions were already being made.

(a) Indonesia.

The Republic Indonesia has had a complex history since 1945, and the history of Islam has been similarly complex. The colonial courts system (now renamed Pengadilan Agama) has been retained and extended to all of Indonesia. In addition, a Department of Religious Affairs has been established for the whole

Republic. The jurisdiction of the courts has been extended somewhat, though not to the extent asked for by Islamic activists. However, the latter have been successful in preserving the position of *Sharīʿa* in the contemporary reforming legislation, such as family law. There is no Muslim or Islamic Code of law as such in Indonesia. Various drafts have been proposed and are still under discussion.

(b) Singapore and Malaysia.

The 1950s saw a considerable activity in the regulation of *Sharīʿa*. Singapore and all the states of Malaysia now have enactments (The Administration of Islamic [or Muslim] Law) in force. Generally speaking, the legislation provides mechanisms for (i) the determination of *Sharīʿa* entrusted to a Council (Majlis) of scholars; (ii) a system of Muslim courts; and (iii) statements of substantive principles of law, including family law, trusts and offences against religion. In Malaysia, though not in Singapore, constitutional amendments in 1988 have re-enforced the *Sharīʿa*. Since the 1980s also, the various states in Malaysia have considerably extended the scope of *Sharīʿa*.

(c) The Philippines.

After many years of neglect under the Spanish, American, and Republic of the Philippines' governments, the *Sharīʿa* received formal recognition in 1977 with the proclamation of the "Code of Muslim Personal Laws of the Philippines". It is in five books and covers persons and family relations, succession, disputes, legal opinions penal provisions and transition provisions. In short, the Code recognises the separateness of Islamic principle and provides for its administration in the Philippines for the first time. Data are lacking on its success or otherwise at the moment.

(d) General.

The *Sharīʿa* has been much re-defined in South-East Asia. We can trace adaptations to local form and culture as in the pre-modern texts, and its colonial redefinitions into European form. These have been continued into the post-War years. More recently, however, there has been a consistent trend toward reintroducing the rules of *Sharīʿa* in a more classically accurate formulation. If this progression is even partly implemented, it will result, for the first time, in the application of a "classical" *Sharīʿa* to South-East Asia. The legal history of Islam in the area will thus have come full circle; from its introduction in the Arabic, through its re-definition in Malay, and now back again to the Arabic sources. However, the *Sharīʿa* is dependent on the authority of the State, which is secular. Its existence is unlikely to escape from this constitutionally imposed status.

*Bibliography*: 1. General. See the arts. on the various countries, and M.B. Hooker, *Islam in South-East Asia*, Leiden 1983. 2. Pre-modern texts. M.B Hooker (ed.), *The law of South-East Asia*, i, Singapore 1984; I. Proudfoot and Virginia Hooker, *Malay: mediating time and space*, in *Illuminations*, ed. A. Kumar, Jakarta 1995. 3. Colonial laws. M.B. Hooker, *Islamic law in South-East Asia*, Kuala Lumpur 1984. 4. Modern laws. D.S. Lev, art. MAḤKAMA. 6; idem, *Islamic courts in Indonesia*, Berkeley 1972; M.B. Hooker, *op. cit.*; Norani Othman (ed.), *Sharia law and the modern nation state*, Kuala Lumpur 1994.

(M.B. HOOKER)

**SHARĪʿATĪ, ʿALĪ**, influential Iranian intellectual (1933-77).

He was born at Mazīnān (Khurāsān), as the son of Muḥammad Taḳī Sharīʿatī, a preacher. His secondary education he received in Mashhad and in 1951 he qualified as teacher. His first publications and translations, as well as his involvement in politics, date from this period. In 1956 he enrolled as a student at the Faculty of Letters in Mashhad. Receiving his bachelor's degree in 1959, he was rewarded with a scholarship. A year later he went to Paris where he studied religious history and sociology, but his thesis, under G. Lazard, was in the field of Persian philology. In his Parisian period he actively supported the Algerian and other liberation movements. His principal sources of inspiration were Louis Massignon, with whom he studied the figure of the Prophet's daughter Fāṭima, and Frantz Fanon, whose book *The wretched of the earth* he translated and with whom he corresponded. Upon his return to Iran, in 1964, he was arrested for importing banned books and jailed for several months. After his release he taught, first in a village and then in a high school in Mashhad, and he was employed at the university of Mashhad to teach sociology and history of religion. In 1970 he was dismissed and two years later he went to Tehran, where he soon became the key figure of the Ḥusayniyya-yi Irshād, a centre for the study of Islam, established in 1965. At the end of 1973 the centre, renowned particularly for the well-attended public lectures it organised, was shut down by the government and Sharīʿatī went into hiding, but after some time he gave himself up in order to secure the release of his father, who was held hostage. After 18 months of solitary confinement, he was allowed, in March 1975, to return to Mazīnān where he was kept under constant police surveillance. In the spring of 1977 he managed to go to London, but shortly after his arrival there, he died of a heart attack on June 19.

His ideas centred around the reconstruction of true Islam, which he equated with the original Shīʿī Islam, i.e. the Islam of ʿAlī and his family and their partisans, as opposed to the highly institutionalised and clerical (post-)Ṣafawid Shīʿism. In this original Islam, *tawḥīd* is central not only in its theological, but also in its social and political implications, since it favours a classless society and a revolutionary ethos. Therefore, Abū Dharr [*q.v.*], a "God-worshipping socialist", and Fāṭima [*q.v.*] are presented as role-models for modern Muslim men and women. Sharīʿatī's sometimes revolutionary approach to Islam made him popular with many young Iranians, university students in particular, as well as with some more reform-minded members of the Shīʿī clergy. In the eyes of the traditional segments of this clergy, however, he lacked the necessary qualifications to be an authoritative spokesman on Islamic affairs. Sharīʿatī is often considered to be one of the most important ideologues of the process culminating in the Islamic Revolution in Iran. However, there is no real congruence between his ideas and the theoretical foundations, let alone the policy, of the ensuing Islamic Republic of Iran. Nevertheless, it is not to be denied, that his ideas have played and still play an important part in the discussions on the role and significance of Islam, both in Iran and, through the translation of several of his writings, in many other countries of the Islamic world.

*Bibliography*: In the absence of a comprehensive and thorough study on Sharīʿatī, information on his life and ideas are to be found in S. Akhavi, *Religion and politics in contemporary Iran. Clergy-state relations in the Pahlavi period*, Albany 1980, 143-50; H. Dabashi, *Theology of discontent. The ideological foundation of the Islamic Revolution in Iran*, New York and London 1992, 102-47; N.R. Keddie, *Roots of revolution. An interpretive history of modern Iran*, New Haven and London 1981, 216-25; M.M.J. Fischer and